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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,912	11/01/2003	Kristopher J. Mueller	KJM-1	7759

7590 09/16/2004  
Kristopher J. Mueller  
P.O. Box 674  
Asheville, NC 28802

EXAMINER

PAYER, HWEI SIU CHOU

ART UNIT PAPER NUMBER

3724

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/700,912	Applicant(s) MUELLER, KRISTOPHER J. <span style="float: right;">OK</span>	
	Examiner Hwei-Siu C. Payer	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6,8,13 and 14 is/are rejected.
- 7) ☒ Claim(s) 2-5,7,9-12 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1-01-03</u> | 6) <input type="checkbox"/> Other: ____  |

## **Detailed Action**

The preliminary amendment filed on 2-25-2004 has been entered.

### **Objection to the Abstract**

The abstract of the disclosure is objected to because the form and legal phraseology, such as "said", should be avoid.

Correction is required. See MPEP § 608.01(b).

### **Objection to the Specification**

The disclosure is objected to because of the following informalities: On page 6, line 9, it appears "refastening hole" should read --rear fastening hole--.

Appropriate correction is required.

### **Claims Objection**

Claims 3-5 and 13-15 are objected to because of the following informalities:

(1) In claim 3, line 2, "the index finger" should read --an index finger--.

(2) In claim 13, line 7, "the index finger" should read --an index finger--.

Appropriate correction is required.

**Claims Rejection - 35 U.S.C. 102(b)**

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 13 and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wilkens (U.S. Patent No. 4,672,745).

Wilkens discloses a utility knife comprising a housing (10), a cutting member (12), an opening (17) extending through the middle portion of the housing (10), and a skid plate (24/26) as claimed.

**Claims Rejection - 35 U.S.C. 103(a)**

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kao (U.S. Patent No. 6,484,404).

Kao discloses a utility knife (1) comprising a housing (10,101), a cutting member (2), a pivot wheel (8), and a protruding section (i.e. the end of the housing grip 10 that is

opposite the cutting member 2) substantially as claimed except for the location of the pivot wheel (8). Specifically, Kao's pivot wheel (8) is attached to the front portion rather than the middle portion of the housing (10,101).

However, the claimed location of the pivot wheel is not patentably distinct over that of Kao, since as long as the pivot wheel is capable of (or performs the function of) stabilizing the knife during use. It appears that the location of the pivot wheel depends more upon personal preference than on any inventive concept.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kao (U.S. Patent No. 6,484,404) as applied to claim 1 above, and further in view of Schmidt (U.S. Patent No. 5,386,632).

Kao's knife as set forth substantially as claimed except it lacks storage compartment in the housing (101,10).

Schmidt shows a knife (10) comprising a housing (12) having a storage compartment (26) for receiving spare blades.

It would have been obvious to one skilled in the art to modify Kao by providing the housing (101,10) with a storage compartment therein for receiving spare blades as taught by Schmidt.

### **Indication of Allowable Subject Matter**

1. Claims 2, 7 and 9-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
2. Claims 3-5 and 15 are objected to, but would be allowable if amended to overcome the objection as set forth and to rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Prior Art Citations**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bernard, Bassett, Schrock et al., Vito et al., Harrison, Ryan, Jacoff, Janser, Lee, MacDonald and Street are cited as art of interest.

### **Point of Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 703-308-1405. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 703-746-3293 for proposed amendments.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

H Payer  
September 13, 2004

*H Payer*

**Hwei-Siu Payer**  
**Primary Examiner**